

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, MAY 19, 2011, 1:00 P.M.**

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**CALL TO ORDER**

Bill Mitchell, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:     Bill Mitchell                     Bob Peregrine                     Walter Kolb  
                             Pat Haukohl                     Gary Goodchild  
                             Fritz Ruf (Arrived at 1:18 p.m.)

Commission

Members Absent:     Jim Siepmann

Staff

Members Present:     Jason Fruth, Planning and Zoning Manager  
                             Elfriede Sprague, Clerk Typist III  
                             Dale Shaver, Director

Guests Present:         Anthony Foss, Agent for Aleksandra Investments, LLC– SCU-1048C  
                             Brett Meili, SCU-1048C  
                             Tim Voelker, Bielinski Builders– SCU-992F  
                             Kenneth Simatic, Bay Pointe Condominium Association Agent – SCU-992F

**CORRESPONDENCE:**

Two items were distributed to the Commission for review regarding SCU-1048C – Aleksandra Investments, LLC. An e-mail from Patricia Celek, dated May 16, 2011, sharing her comments regarding the transfer of the Conditional Use and a letter from Brett Meili, received May 19, 2011, writing in regard to the proposed transfer of the marina Conditional Use.

**MEETING APPROVAL:**

*“Planning Communities for Generations”* workshops sponsored by R.A. Smith National at the Metropolitan Builders Association, N16 W23321 Stone Ridge Dr., Waukesha, WI 53188, Session I, Wednesday, May 25, 2011, 6:30 p.m. to 8:30 p.m. and Session II, Wednesday, June 8, 2011, 6:30 p.m. to 8:30 p.m.

- *Mrs. Haukohl moved, seconded by Mr. Peregrine and carried unanimously for approval for any interested Commissioners to attend the workshop.*

**MINUTES**

Approval of the April 21, 2011, Minutes.

- *Mrs. Haukohl moved, seconded by Mr. Peregrine and carried unanimously for approval of the April 21, 2011, Minutes.*

**PUBLIC COMMENT:**

Chairman Mitchell asked if anyone from the audience wished to address the Commission? With no public comment, he moved to the next item on the agenda.

• **SCU-992F (Bay Pointe Condominium Association) Town of Oconomowoc, Section 35**

Mr. Fruth presented the “Staff Memorandum” dated May 19, 2011, and made a part of these Minutes. He pointed out the location of the property in Section 35 of the Town of Oconomowoc on the aerial photograph and indicated the request is to extend the deadline required in Condition No. 6 of the existing Conditional Use (SCU-992F) for the removal of the clubhouse/community center building and restoration of the area with vegetation.

Mr. Fruth stated that at the August 5, 2010 meeting, the Waukesha County Park and Planning Commission reviewed a request by the Bay Pointe Condominium Association to amend their existing Conditional Use Permit to allow the removal of the clubhouse/community center building and restoration of the area with vegetation. He explained the building was originally considered in the approved Conditional Use as an amenity in Phase One of the Planned Unit Development and the Condo Association no longer wished to be burdened with the long term maintenance responsibilities of the facility. The Commission approved the request with a condition that “The site shall be fully restored with grass, prior to September 30, 2010, or the restoration project shall be suspended until the following growing season and be completed by August 31, 2011”.

The petitioner has indicated they have had difficulty securing an entity to remove the clubhouse/community center building by the deadline specified, so they are requesting a revision to the deadlines imposed in Condition No. 6. Mr. Simatic explained the Condo Association had spoken with an Amish group for the removal of the building; however they had difficulty in arranging a crew for the fall of 2010 because the Amish have a specific schedule for their growing season and were unable to do the project. They have agreed to proceed with the removal of the building this fall and with the restoration of the site following the growing season in 2012. He continued that because the Association will be covering the area with about 2 feet of soil, the extended deadline will allow time for the soil to settle.

Mrs. Haukohl asked if there would be any problems with erosion. Mr. Simatic responded that there will be nothing else disturbed except for the removal of the building from its foundation, which is a concrete slab. The surrounding area will retain its original vegetation.

Chairman Mitchell noted that the building was previously used as a landscape supply store and questioned whether there were any hazardous materials on the site. Mr. Simatic replied, the facility has been checked and there are none. A letter stating such will be submitted to the Town Building Inspector.

***After discussion, Mr. Peregrine moved, seconded by Mr. Kolb, and carried unanimously for approval, to revise Condition No. 6 of the existing Conditional Use (SCU-992F), in accordance with the “Staff Memorandum”, to read:***

“The site shall be fully restored with grass, prior to September 30, 2011, or the restoration project shall be suspended until the following growing season and be completed by August 31, 2012”.

***The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.***

- **PO-10-OCOT-15 (Bay Pointe Condominium Association) Town of Oconomowoc, Section 35**

Mr. Fruth presented the “Staff Memorandum” dated May 19, 2011, and made a part of these Minutes. He indicated the request was related to the previous Conditional Use SCU-992F listed above.

*After discussion, Mr. Goodchild moved, seconded by Mr. Peregrine, and carried unanimously for approval, to revise Condition No. 6 of the existing Site Plan/Plan of Operation (PO-10-OCOT-15), in accordance with the “Staff Memorandum”, to read:*

“The site shall be fully restored with grass, prior to September 30, 2011, or the restoration project shall be suspended until the following growing season and be completed by August 31, 2012”

*The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **SCU-1048C (Aleksandra Investments LLC), Town of Oconomowoc, Sections 35 and 36**

Mr. Fruth presented the “Staff Memorandum” dated May 19, 2011, and made a part of these Minutes. He pointed out the location of the property at the intersection of W. Lake Dr. and Road B in the Town of Oconomowoc on the aerial photograph and indicated the request is to transfer the existing Conditional Use for boat moorings from Patrick Johnson to the new owner, Aleksandra Investments, LLC.

Mr. Fruth referenced the two e-mails that were distributed to the Commission regarding the petition. He outlined some of the history regarding approvals on the property. He explained the larger site “Foolery’s Liquid Therapy” has a Certified Survey Map pending; tying several parcels together into one lot and because of separation by road, there will be two outlots. He noted that in 2005 a Conditional Use was approved with conditions that there be 14 boat slip rentals on the property. Condition No. 15 of that approval allowed for the transfer of the Conditional Use to a lessee or a future owner. In 2006 a Conditional Use transfer was authorized for Pat Johnson. Although the Conditional Use was approved, several conditions were not complied with and consequently a permit was never issued. The property went into foreclosure and the prior owner was unable to follow through on the required conditions. The outstanding conditions were No. 1 which is that the Town verifies that all of their conditions of approval were met: No. 3, that the DNR verify the Pier Plan is approved; No. 11 that Proof of Liability insurance be submitted and No. 14, that a Declaration of Restrictions be recorded with the Register of Deeds office stating that a Conditional Use exists on the property and that all conditions shall be followed as part of the operation. The operator of the tavern and the rental unit tenant were also authorized two moorings as well to the south of Lake Dr. The current zoning of the property is B-2 Local Business District, which creates some of the complications. The property had previously been zoned Residential to the south of Lake Dr., however in 2004 there was a Comprehensive Zoning change and the property was changed to the B-2 District. Therefore the property with the restaurant/tavern no longer needs a Conditional Use Permit, since it is a permitted use in the B-2 zoning District, however it still requires a Site Plan and Plan of Operation.

Mr. Fruth stated that in 1981 the former owner applied for a Conditional Use Permit to obtaining legal non-conforming use for the property. It was denied by the Town and it was specifically noted that there were concerns about traffic, lack of parking, etc. From 1988 to 1995 there were periodic complaints and violation files established that included illegal moorings. In 1995, in order to rectify some of the violations, a Conditional Use Permit was authorized for both the restaurant and the moorings. In 1997, the Conditional Use was terminated and legal non-conforming use status was obtained for the moorings.

Mrs. Haukohl questioned how the moorings obtained legal non-conforming use status? Mr. Fruth replied Staff is not sure why that determination was made 15 years ago. There is not enough information to know whether there were moorings that predate the ordinance or not. He has a concern that a marina is required to have one acre of area under the County's Conditional Use provisions and in viewing the Certified Survey Map, it appears it may not meet the requirement. Mrs. Haukohl asked if the property is less than one acre, can we approve the Conditional Use. Mr. Fruth replied it is possible the one acre provision had changed over the years and the only way to know is to go back and check the old versions of the ordinance or it could have been grandfathered. It is also possible the property was split when it went into foreclosure.

Mr. Foss presented himself to the Commission as the registered agent for Aleksandra Investments, and the owner of the five parcels in question. He stated the Certified Survey Map is proceeding. They will need to dedicate 66 ft. for right of way and he has talked to his surveyor. It should be done in the next five to six days. He explained he owns the five buildings that Pat Johnson used to own and identified them for the Commission. He indicated the combined acreage would be more than an acre. Mr. Mitchell noted Mr. Voss claimed they had DNR approval for the piers and questioned how and where was it documented? Mr. Voss replied when the property was purchased in December 2009 all of the boat slips were dilapidated and have since been replaced or repaired. When he spoke to Jeff Herrmann, the Town Planner, in January 2010, Jeff told him the DNR had approved it, and claimed it was in the files somewhere but no documentation could be found. Chairman Mitchell reminded him that written proof of approval will still need to be submitted. Mr. Fruth asked if the Proof of Liability Insurance submitted applied to both the tavern and the moorings. Mr. Voss replied it did and documentation has been submitted to Peggy Tilley and Jeff.

Mrs. Haukohl referenced the -mails that were received regarding the noise, litter, parking etc. Since many of these issues are addressed in the Conditional Use, she advised him that he needs to work with his neighbors on reconciling these issues. Mr. Foss responded that he has spoken with the police chief many times; however he has never received a violation or ticket for anything. There have been complaints about the noise level, but there is an allowed level and they keep close track of that. An air conditioning system has been installed and the windows are never open. An immediate neighbor to the north had complained about the dumping of bottles at night and they took care of the problem immediately by instructing the employees not to dump garbage after 8:00 p.m., in fact the dumpster location has now been moved to the other side of the property. In his opinion, noise has not been a continuing problem.

Mr. Peregrine, who is also member of the Town Plan Commission, commented that at a previous Town meeting about the bar, there were complaints regarding noise, litter, loud customers, etc. Mr. Voss came to that meeting with his DJ and all of the complaints were discussed. Jim Wallis, the police chief, did surveillance of the bar in his personal car and commented "it's a bar" and if there are any problems with people misbehaving outside the bar, "we arrest them" just like anywhere else. In Mr. Peregrine's opinion the bar was not aware they were creating problems for the neighbors, but now that they have been made aware, the issues have been resolved. The Town's attitude is that these types of establishments in Okauchee have a very short operating season and the boat slips make it possible for them to increase their revenue and stay in business. He feels it should be approved with the caveat that waste receptacles be established on the north side, the Road B side, by the slips and that they be secured.

***After discussion, Mr. Peregrine moved, seconded by Mr. Ruf approval of the transfer of the Conditional Use to the new owner (Aleksandra Investments, LLC), as conditioned, in accordance with the "Staff Memorandum", with the following additional condition.***

- ***The petitioner establishes secure waste receptacles to be placed along the Road B side by the boat slips.***

Mrs. Haukohl questioned if the boat slips are for customers or are they seasonal rentals. Mr. Foss replied they are seasonal moorings. She stated in that case, Mr. Foss knows these people and should be able to instruct them on how to dispose of their litter. Mr. Goodchild reminded everyone that because this is a Conditional Use, if complaints continue to be received, the Town or the County can discontinue the use.

Mr. Meili, introduced himself, stated he lives on Road B and would like to add some comments regarding the bar. He continued the music is supposed to stop at midnight on Saturday nights, but it continues past that time and is above the 35 decibel limit. There are noisy patrons on Harley's, litter on the marina, loud and swearing boaters, uncut grass creating an unsightly business and doesn't feel the problems have been fully resolved. He questioned where he goes with complaints when the bar is in non-compliance with their Conditional Use Permit.

In response to Mr. Meili's concerns, Mr. Foss replied the Town of Oconomowoc Police are there all the time. The bar has a decibel meter to make sure it is not too loud and the midnight time limit is for live music. He suggested that if there are complaints the neighbors call the bar and tell them the problem so it can be addressed. If there are people out on boats that are being unruly, they should be people he knows and easily identified. He has tried to work with the neighbors on the issues and wants to be kept aware of any complaints; however it is a bar, has always been a bar and therefore will have some issues. He has no control over the noise created by Harley's or patrons leaving, however he has asked the Police Chief for some signs that say "Please be quiet and respect our neighbors". There are also three bouncers that oversee the grounds.

Mr. Peregrine added that per the meetings at the Town Hall, he felt the issues were satisfactorily resolved with all concerned parties and the Town has not had any complaints. At the conclusion of the meeting, the Town Plan Commission recommended to him and all of the neighbors, that when there is a complaint, it is told to Mr. Foss, because most of them are behavioral problems.

Mr. Fruth reassured Mr. Meili that the County's Zoning Ordinance regulates the use of this property. In the past there have been complaints on this property, however to his knowledge, there have been no new complaints until the two e-mails that were received this week. Unless, people let the Town or County know there are issues, they are unaware of them. Plus it does seem most of the complaints are more police issues than planning issues. The County cannot control obnoxious behavior, however if there are numerous complaints to the Police Dept., the Town Plan Commission or the County Staff, the Conditional Use and Plan of Operation can be reviewed. If someone has a complaint, they need to use their own judgment as to who to call; Mr. Foss, the police or the Town or County.

*After further discussion the motion carried unanimously.*

*The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **Overview of Zoning Map modernization and new draft zoning layer**

Mr. Fruth gave a brief overview of the draft Zoning Maps the staff has prepared for the Towns, City of Pewaukee and the Village of Summit. A memo with a copy of the map has been sent to them for their review and comment. A similar memo has also been sent to the Cities and Villages with annexed shoreland jurisdiction as there tends to be some uncertainty as to when the County's jurisdiction does apply in shoreland areas. The new maps will clean up past errors and specifically they will capture new natural resource inventories and include dam failure analysis studies. Also incorporated into the maps was the

2005 DNR wetland inventory map; however it was not easy to add the layer as the DNR wetland inventory also picks up storm water ponds. The new 2008 FEMA floodplain mapping and the 2005 SEWRPC Environmental Corridor inventory were also incorporated. Navigability determinations that haven't been previously captured will also be added. He explained several studies were still ongoing that may or may not be included in the new maps, specifically the Bark River, Sussex Creek in the Town of Lisbon, and the Genesee Lakes outlet. The Environmental Corridor definition has been changed to include Isolated Natural Resource Areas, generally those are areas that are five acres or more and tend to be upland woods. These Isolated Natural areas are now mapped as Environmental Corridor. Mr. Fruth gave a brief demonstration of how the new zoning maps and multiple layers are presented on the County mapping system and their associated links.

Director Shaver added upon adoption of the new zoning maps, they will be placed into the GIS system. This will allow for multiple layers of information regarding land use, navigability, soils, etc. to be available to the public for their use. Several municipalities have contacted him and expressed an interest in the County hosting their zoning layer and any amendments, however the current software does not allow for this. There may be opportunities in the future to provide this service.

**ADJOURNMENT**

*With no further business to come before the Commission, Mr. Peregrine moved, seconded by Mrs. Haukohl to adjourn at 2:50 p.m.*

Respectfully submitted,

*Pat Haukohl*

Pat Haukohl  
Secretary

PH:es